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or administrator shall file a final account with the court, verified by his or her oath. Such final account shall affirmatively set forth:

(1) That all claims against the estate have been paid, except as shown, and that the estate has adequate unexpended and unappropriated funds to fully pay such remaining claims;

(2) The amount of money received and expended by him or her, from whom received and to whom paid, referring to the vouchers for each of such payments;

(3) That there is nothing further to be done in the administration of the estate except as shown in the final account;

(4) The remaining assets of the estate, including unexpended and unappropriated money, at the time of filing the final account;

(5) The proposed determination of heirs and indicate the names, ages, addresses and relationship to the decedent of each distributee and the proposed distributive share and value thereof each heir, devisee or legatee is to receive; and

(6) A petition that the court set a date for conducting a hearing to approve the final account, to determine the heirs, devisees and legatees of the decedent and the distributive share each distributee is to receive.

§ 11.710 Determination of the court.

At the time set for hearing upon the final account, the Court of Indian Offenses shall proceed to examine all evidence relating to the distribution of the decedent's estate, and consider objections to the final account which may have been filed by any heir, devisee, legatee, or other person having an interest in the distribution of the estate. Upon conclusion of the hearing, the court shall enter an order:

(a) Providing for payment of approved claims;

(b) Determining the decedent's heirs, devisees and legatees, indicating the names, ages and addresses of each, and the distributive share of the remaining estate which each distributee is to receive; and

(c) Directing the administrator or executor to distribute such distributive share to those entitled thereto.

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§ 11.711 Descent and distribution.

(a) The court shall distribute the estate according to the terms of the will of the decedent which has been admitted to probate.

(b) If the decedent died intestate or having left a will which has been rejected by the court, the estate shall be distributed as follows:

(1) According to the laws and customs of the tribe if such laws and customs are proved; or

(2) According to state law absent the existence of tribal laws or customs.

(c) If no person takes under the above subsections, the estate shall escheat to the tribe.

§ 11.712 Closing estate.

(a) Upon finding that the estate has been fully administered and is in a condition to be closed, the court shall enter an order closing the estate and discharging the executor or administrator.

(b) If an order closing the estate has not been entered by the end of nine months following appointment of executor or administrator, the executor or administrator shall file a written report with the court stating the reasons why the estate has not been closed.

§ 11.713 Small estates.

An estate having an appraised value which does not exceed \$2,000.00 and which is to be inherited by a surviving spouse and/or minor children of the deceased may, upon petition of the executor or administrator, and a hearing before the court, be distributed without administration to those entitled thereto, upon which the estate shall be closed.

Subpart H—Appellate Proceedings

§ 11.800 Jurisdiction of appellate division.

The jurisdiction of the appellate division shall extend to all appeals from final orders and judgments of the trial division, by any party except the prosecution in a criminal case where there has been a jury verdict. The appellate division shall review all issues of law presented to it which arose in the case,

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but shall not reverse the trial division decision unless the legal error committed affected a substantial right of a party or the outcome of the case.

§ 11.801 Procedure on appeal.

(a) An appeal must be taken within 15 days from the judgment appealed from by filing a written notice of appeal with the clerk of the court.

(b) The notice of appeal shall specify the party or parties taking the appeal, shall designate the judgment, or part thereof appealed from, and shall contain a short statement of reasons for the appeal. The clerk of the court shall mail a copy of the notice of appeal to all parties other than parties taking the appeal.

(c) In civil cases, other parties shall have 15 days to respond to the notice of appeal.

(d) In civil cases, the appellant may request the trial division to stay the judgment pending action on the notice of appeal, and, if the appeal is allowed, either party may request the trial division to grant or stay an injunction pending appeal. The trial division may condition a stay or injunction pending appeal on the depositing of cash or bond sufficient to cover damages awarded by the court together with interest.

§ 11.802 Judgment against surety.

Any surety to a bond submits himself or herself to the jurisdiction of the Court of Indian Offenses, and irrevocably appoints the clerk of the court as his or her agent upon whom any papers affecting his or her liability on the bond may be served.

§ 11.803 Record on appeal.

Within 20 days after a notice of appeal is filed, the clerk of court shall certify and file with the appellate division the record of the case.

§ 11.804 Briefs and memoranda.

(a) Within 30 days after the notice of appeal is filed, the appellant may file a written brief in support of his or her appeal. An original and one copy for each appellee shall be filed with the clerk of court who shall mail one copy by registered or certified mail to each appellee.

(b) The appellee shall have 30 days after receipt of the appellant's brief within which to file an answer brief. An original and one copy for each appellant shall be filed with the clerk of the court who shall mail one copy, by registered or certified mail, to each appellant.

§ 11.805 Oral argument.

The appellate division shall assign all criminal cases for oral argument. The court may in its discretion assign civil cases for oral argument or may dispose of civil cases on the briefs without argument.

§ 11.806 Rules of court.

The chief magistrate of the appellate division shall prescribe all necessary rules concerning the operation of the appellate division and the time and place of meeting of the court.

Subpart I—Children's Court

§ 11.900 Definitions.

For purposes of sections pertaining to the children's court:

(a) *Abandon* means the leaving of a minor without communication or failing to support a minor for a period of one year or more with no indication of the parents' willingness to assume a parental role.

(b) *Adult* means a person eighteen (18) years or older.

(c) *Counsel* means an attorney admitted to the bar of a state or the District of Columbia or a lay advocate admitted to practice before the Court of Indian Offenses.

(d) *Custodian* means one who has physical custody of a minor and who is providing food, shelter and supervision to the minor.

(e) *Custody* means the power to control the day-to-day activities of the minor.

(f) *Delinquent act* means an act which, if committed by an adult, would be designated a crime under this part or under an ordinance of the tribe.

(g) *Detention* means the placement of a minor in a physically restrictive facility.

(h) *Guardian* means a person other than the minor's parent who is by law responsible for the care of the minor.